

12 MAY 2006



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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902-0902
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In re Application of	:	DECISION ON
KREUTER	:	
Application No.: 10/517,969	:	PETITION UNDER
PCT No.: PCT/EP03/06249	:	
Int. Filing Date: 13 June 2003	:	37 CFR 1.47(b)
Priority Date: 13 June 2002	:	
Attorney Docket No.: 02968.268USWO	:	
For: PROTECTIVE COATING FOR	:	
DOCUMENTS	:	

This is a decision on applicant's "RENEWED PETITION UNDER 37 CFR §1.47(b)" filed via facsimile transmission in the United States Patent and Trademark Office (USPTO) on 13 March 2006.

BACKGROUND

On 13 June 2003, applicants filed international application PCT/EP03/06249, which claimed a priority date of 13 June 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 24 December 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 13 December 2004.

On 13 December 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an unexecuted declaration of the inventor.

On 15 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for reply.

On 10 August 2005, applicants submitted a petition under 37 CFR 1.47(b), which was accompanied by, *inter alia*: a declaration of inventor executed by Dennis J. Warwick as representative of the non-signing inventor; a declaration of facts from Cassandra Voigt; Federal Express tracking reports; a copy of a translated redacted employment contract between Mr.

Kreuter and DataCard Deutschland GmbH of Dusseldorf Germany (hereinafter "DC Germany"); a declaration of facts by Heiner Bohnsack; a declaration of facts by James A. Larson; and an authorization from a Corporate Attorney of DataCard Corporation of Minnetonka, Minnesota (hereinafter "DCC") for Dennis J. Warwick to sign on behalf of DCC.

On 12 January 2006 (the date-stamp mistakenly indicates the date as 12 January 2005), a decision was mailed dismissing applicant's petition under 37 CFR 1.47(b) without prejudice. Specifically, it was noted that applicant failed to provide an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor. In particular, it was noted that it was not clear that the person signing the declaration on behalf of the 37 CFR 1.47(b) applicant did not have authorization.

On 13 March 2006, applicant filed the instant renewed petition under 37 CFR 1.47(b) which was accompanied by a declaration of Andrea Snook.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

As noted in the decision mailed 12 January 2006, items (1), (2), (3), (5) and (6) have been met.

Item (4) has now been met as well. Authorization for Dennis J. Warwick to sign the declaration of inventors on behalf of DCC is given by Andrea Snook, identified as a "Secretary", i.e., an officer of the company. See MPEP § 409.03(b).

CONCLUSION

For the above reasons, applicants' renewed petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office

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of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **10 August 2005**.



Daniel Stemmer

Legal Examiner

PCT Legal Affairs

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In re Application of
KREUTER, Rudiger
Application No.: 10/517,969
PCT No.: PCT/EP03/06249
Int. Filing Date: 13 June 2003
Priority Date: 13 June 2002
Attorney Docket No.: 02968.268USWO
For: PROTECTIVE COATING FOR DOCUMENTS

Dear Mr. Kreuter:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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